IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 1613 OF 1994

Tamanappa Irappa Hingamire & ors. .. Petitioners

Vs.

Principal
Seth Govindji Raoji Ayurved Maha
Vidyalaya and ors. .. Respondents

Mr. Pramod N. Joshi for Petitioners.
Mr. A.M. Kulkarni h/f Mr. A.A. Kumbhakoni for Respondent Nos.1 and 2.
Mr. Y.D. Mulani, AGP for Respondent Nos.3 and 4.

CORAM : B. H. MARLAPALLE &
D. B. BHOSALE,JJ.

Date : March 06, 2006.

ORAL JUDGMENT (PER B.H. MARLAPALLE,J.) :

1. This petition filed under Article 226 of the Constitution impugns the Government Resolution dated 18/2/1993 partly and it is contended that by the same amendment in the earlier GR dated 24/11/1992 the Government has discriminated between similarly placed Lecturers and Librarians by fixing the date of 1/4/1981 for commencement of the service for being considered for the award of senior scale and selection scale.

2. The petitioner no.1 is the Lecturer and the remaining 9 petitioners are the members of the teaching faculty at Seth Govindji Raoji Ayurved Maha Vidyalaya at Solapur which is managed by the respondent no.2-society and admittedly it is an aided private college. The Government of Maharashtra issued a Resolution dated 26/2/1991 laying down the conditions for the placement of Lecturers in senior scale and selection grade. Every lecturer in the existing scale of Rs.700-1600/- would be placed in senior scale of Rs.3000-5000 if he/she had completed 8 years of service after regular appointment and other conditions as set out in para 1(b) of the said Resolution were satisfied. Every lecturer in the senior scale would be eligible for promotion to the post of Lecturer - selection grade in the payscale of Rs.3700-5700 if he/she had completed 8 years of service in the senior scale provided that the requirement of 8 years would be relaxed if the total service of the lecturer is not less than 16 years. There are other conditions set out in para 2 of the said GR. It was further clarified that the promotion to the post of lecturer selection grade would be through a process of selection by a Departmental Promotion Committee and such post could be created for the purpose of upgrading the corresponding number of

the posts of Lecturers in the colleges i.e. Government Medical, Dental and Ayurvedic colleges as per the GR of 27/3/1989 which policy admittedly came to be made applicable to the Librarians and Lecturers in the Private Medical, Ayurvedic and Dental Colleges receiving 100% grants from the State Government. On 24/11/1992 the State Government issued another Resolution constituting the Committee for the purpose of selection to the post of lecturer to the senior scale and lecturer - selection grade. By the impugned GR dated 18/2/1993, two further clarifications were set out in so far as the GR dated 24/11/1992 was concerned, namely, that the said Committee would be also the Committee for selection for librarians and the date for counting the regular service of 8 years for awarding the senior scale and selection grade would be 1/4/1981 and not from the initial date of joining.

3. In the instant case, the petitioners who are working as lecturers have joined from 1975 onwards and the junior most of them is the lecturer who had joined on 20/7/1980. They claimed that if the cut off date of 1/4/1981 was not declared by the impugned GR they would be entitled for the senior scale immediately on completion of 8 years of service from the initial date

of joining and thereafter in another 8 years they would be eligible for the benefit of selection grade and this benefit has been denied to them by the Government by fixing the date of 1/4/1981 for counting of their service.

4. The grounds of challenge on the purported allegation of violation of the guarantee provided under Article 14 of the Constitution are fallacious. The lecturers in the Ayurvedic and Unani Colleges all over the State of Maharashtra were not granted fixed payscale prior to 1976 and the Government of Maharashtra issued the first Resolution dated 4/9/1978 increasing the rate of grant in aid being paid to the Private Ayurvedic and Unani Colleges upto 75%. So far as the payscales are concerned, the Government for the first time took positive steps by following the U.G.C. scales. It decided to make applicable the scale of pay sanctioned to Government employees vide Government Resolution dated 17/4/1978 and subsequently it adopted the U.G.C. payscale to all these teachers in the Private as well as the Government Colleges with effect from 1/4/1981 vide its Resolution dated 26/5/1981. So far as the applicability of the U.G.C. payscale to the post of Librarians in Ayurvedic colleges is concerned, the same was made applicable vide the

Government Addendum dated 27/3/1989. Thus, the Government decided to fix 1/4/1981 as the starting point for counting the regular service of the lecturers in Ayurvedic colleges for implementing the policy of career growth for the lecturers. We do no see any arbitrariness in this action and the date so fixed has rational in as much as the Government of Maharashtra adopted the U.G.C. payscale from the said date i.e. 1/4/1981 for the petitioners and similarly placed teachers in the Medical, Ayurvedic, Dental and Unani Colleges. For the earlier period there could not have been such a benefit accrued to the petitioners or any one of them when their payscales were not fixed prior to 1976 and the rationalisation undertaken by the Government by GR of 1978 was a step forward to bring these lecturers on a prescribed payscales so as to maintain uniformity. The return filed by the State Government has clarified that there is a right nexus in fixing the deemed date as 1/4/1981 with regard to grant of senior and selection grade to the lecturers working in the Ayurvedic colleges run by the Government and the aided Ayurvedic colleges run by the private institutions like the respondent no.2. We are satisfied that there is no prejudice caused to the petitioners by the impugned GR.

5. In the premises, the challenge to the impugned GR dated 18/2/1993 is devoid of merits and the petition fails. The petition is hereby dismissed. Rule discharged. No costs. However, so far as petitioner no.1 is concerned, we are sure the respondents shall take due steps to calculate the benefits from 1/4/1989 and ensure that they are made available to him with arrears, if any, within a period of three months from today.

(D.B. Bhosale,J.) **(B.H. Marlapalle, J.)**